

AMENDED IN SENATE AUGUST 21, 2012  
AMENDED IN SENATE MAY 31, 2012  
AMENDED IN SENATE MAY 23, 2012  
AMENDED IN ASSEMBLY JANUARY 26, 2012  
AMENDED IN ASSEMBLY MARCH 31, 2011  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 467**

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**Introduced by Assembly Member Eng**  
**(Principal coauthor: Assembly Member Roger Hernández)**  
**(Coauthor: Assembly Member Portantino)**  
(Coauthors: Senators Hernandez and Huff)

February 15, 2011

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An act to amend Section 75101 of the Public Resources Code, relating to the environment, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 467, as amended, Eng. Environment: Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006.

(1) The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative statute approved by the voters at the November 7, 2006, statewide general election, makes approximately \$5.4 billion in bond funds available for safe drinking water, water quality and supply, flood control, natural resource protection, and park improvements. The bond act makes

\$60,000,000 available to the State Department of Public Health (*department*) for the purpose of loans and grants for projects to prevent or reduce contamination of groundwater that serves as a source of drinking water and requires the department to require repayment for costs that are subsequently recovered from parties responsible for the contamination. Existing law requires the ~~State Department of Public Health~~ *department*, in collaboration with the Department of Toxic Substances Control (*DTSC*) and the State Water Resources Control Board, to develop and adopt regulations governing the repayment of costs that are subsequently recovered from parties responsible for the contamination of groundwater. ~~Existing law creates the State Water Pollution Cleanup and Abatement Account in the State Water Quality Control Fund and continuously appropriates the money in that fund to the State Water Resources Control Board for specified purposes with regard to the Porter-Cologne Water Quality Control Act. Existing law, the Carpenter-Presley-Tanner Hazardous Substance Account Act, creates in the General Fund the Site Remediation Account, and authorizes the money in that account to be expended by the DTSC, upon appropriation by the Legislature, for direct site remediation costs.~~

This bill would require the department to adopt the implementing regulations as emergency regulations, pursuant to a specified procedure, and would require the emergency regulations to remain in effect for 180 days after the effective date of those emergency regulations, by which time the department would be required to adopt regulations.

The bill would require the regulations to include a provision allowing the department to enter into an agreement with a grantee that recovers the funds that would authorize the expenditure of the recovered funds to implement ongoing treatment and remediation activities in accordance with the purposes for which funds may be granted pursuant to the bond act.

The bill would establish the Groundwater Contamination Prevention Account in the State Treasury and would require the ~~State Department of Public Health~~ *department* to deposit in that account the funds recovered from responsible parties pursuant to the payment recovery provisions in the bond act. The bill would continuously appropriate funds in the account to the ~~State Department of Public Health~~ *department* for purposes of implementing the groundwater contamination cleanup and prevention provisions of the bond act, thereby making an appropriation.

The bill would authorize the department to expend up to 3% of the recovered funds deposited in the Groundwater Contamination Prevention Account to pay for the department's oversight costs ~~and~~.

*The bill would authorize the department to enter into a memorandum of understanding with the ~~State Water Resources Control Board to utilize the State Water Pollution Cleanup and Abatement Account to administer the recovered funds, thereby making an appropriation DTSC to provide oversight activities or to transfer funds from the Groundwater Contamination Prevention Account to the Site Remediation Account. The bill would appropriate the transferred funds to the DTSC for purposes of implementing the department's agreement with a grantee.~~*

(2) This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 75101 of the Public Resources Code is  
2 amended to read:

3 75101. (a) For the purposes of implementing Section 75025,  
4 the State Department of Public Health shall do ~~all~~ *both* of the  
5 following:

6 (1) Develop guidelines pursuant to Section 75100 in  
7 collaboration with the Department of Toxic Substances Control  
8 and the state board.

9 (2) (A) In collaboration with the Department of Toxic  
10 Substances Control and the state board, develop and adopt  
11 regulations governing the repayment of costs that are subsequently  
12 recovered from parties responsible for the contamination.

13 (B) The State Department of Public Health shall adopt the initial  
14 regulations required pursuant to this paragraph as emergency  
15 regulations in accordance with Chapter 3.5 (commencing with  
16 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
17 Code, and for the purposes of that chapter, including Section  
18 11349.6 of the Government Code, the adoption of these regulations  
19 is an emergency and shall be considered by the Office of  
20 Administrative Law as necessary for the immediate preservation  
21 of the public peace, health and safety, and general welfare.  
22 Notwithstanding Chapter 3.5 (commencing with Section 11340)

1 of Part 1 of Division 3 of Title 2 of the Government Code,  
2 including subdivision (e) of Section 11346.1 of the Government  
3 Code, any emergency regulations adopted pursuant to this section  
4 shall be filed with, but not be repealed by, the Office of  
5 Administrative Law and shall remain in effect until 180 days after  
6 the effective date of the emergency regulations. On or before 180  
7 days after the effective date of the emergency regulations, the State  
8 Department of Public Health shall adopt regulations pursuant to  
9 this paragraph in accordance with Chapter 3.5 (commencing with  
10 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
11 Code.

12 *(C) The regulations adopted pursuant to this paragraph shall*  
13 *include a provision authorizing the State Department of Public*  
14 *Health to enter into an agreement with the grantee that recovers*  
15 *the funds that would authorize the expenditure of the recovered*  
16 *funds to implement ongoing treatment and remediation activities*  
17 *in accordance with the purposes for which funds may be granted*  
18 *pursuant to Section 75025.*

19 ~~(C)~~

20 *(b) (1)* There is hereby established the Groundwater  
21 Contamination Prevention Account in the State Treasury. The  
22 State Department of Public Health shall deposit all funds recovered  
23 from responsible parties pursuant to Section 75025 in the  
24 Groundwater Contamination Prevention Account. The funds in  
25 the account are hereby continuously appropriated to the State  
26 Department of Public Health for purposes of implementing Section  
27 75025, as specified in this section.

28 ~~(D)~~

29 *(2)* The State Department of Public Health may expend up to 3  
30 percent of the recovered funds deposited in the Groundwater  
31 Contamination Prevention Account to pay for the oversight costs  
32 of the State Department of Public Health to ensure the grantee  
33 expends the recovered funds on additional groundwater cleanup  
34 activities in furtherance of the purposes of Section 75025.

35 ~~(E) The regulations adopted pursuant to this paragraph shall~~  
36 ~~include a provision authorizing the State Department of Public~~  
37 ~~Health to enter into an agreement with the grantee that recovers~~  
38 ~~the funds that would authorize the expenditure of the recovered~~  
39 ~~funds to implement ongoing treatment and remediation activities~~

1 in accordance with the purposes for which funds may be granted  
2 pursuant to Section 75025.

3 ~~(F) Notwithstanding Section 13441 of the Water Code, the State~~  
4 ~~Department of Public Health may also enter into a memorandum~~  
5 ~~of understanding with the state board to utilize the State Water~~  
6 ~~Pollution Cleanup and Abatement Account created pursuant to~~  
7 ~~Section 13440 of the Water Code for purposes of administering~~  
8 ~~the funds recovered pursuant to subparagraph (E).~~

9 *(c) As an alternative to expending funds to oversee grantees,*  
10 *as described in paragraph (2) of subdivision (b), the State*  
11 *Department of Public Health and the Department of Toxic*  
12 *Substances Control may enter into a memorandum of*  
13 *understanding that would do either of the following:*

14 *(1) Authorize the Department of Toxic Substances Control to*  
15 *provide the oversight activities described in paragraph (2) of*  
16 *subdivision (b) in lieu of the State Department of Public Health.*

17 *(2) Transfer recovered funds from the Groundwater*  
18 *Contamination Prevention Account to the Site Remediation Account*  
19 *established pursuant to Section 25337 of the Health and Safety*  
20 *Code.*

21 *(d) Any funds transferred from the Groundwater Contamination*  
22 *Prevention Account to the Site Remediation Account pursuant to*  
23 *paragraph (2) of subdivision (c) are hereby appropriated therefrom*  
24 *to the Department of Toxic Substances Control for purposes of*  
25 *implementing an agreement with a grantee pursuant to the*  
26 *regulations adopted pursuant to subparagraph (C) of paragraph*  
27 *(2) of subdivision (a).*

28 ~~(b)~~

29 *(e) For the purposes of implementing subdivision (a) of Section*  
30 *75050, the Department of Fish and Game, when funding a natural*  
31 *community conservation plan, shall fund only the development of*  
32 *a natural community conservation plan that is consistent with the*  
33 *Natural Community Conservation Planning Act (Chapter 10*  
34 *(commencing with Section 2800) of Division 3 of the Fish and*  
35 *Game Code).*

36 ~~(e)~~

37 *(f) The San Francisco Bay Area Conservancy may use the funds*  
38 *made available pursuant to subdivision (c) of Section 75060 to*  
39 *restore the salt ponds in the south San Francisco Bay and to create*  
40 *trails and visitor facilities for public use in that area.*

1 SEC. 2. This act is an urgency statute necessary for the  
2 immediate preservation of the public peace, health, or safety within  
3 the meaning of Article IV of the Constitution and shall go into  
4 immediate effect. The facts constituting the necessity are:

5 In order to allow a grantee conducting groundwater cleanup  
6 activities to continue those activities, thereby better protecting  
7 public health and safety and the environment, it is necessary that  
8 this act take effect immediately.